

## **FINAL STATEMENT OF REASONS**

The Initial Statement of Reasons is incorporated by reference.

## **UPDATES TO THE INITIAL STATEMENT OF REASONS**

On June 8, 2012 the Notice of Proposed Regulations was published which began the public comment period. The Department's Notice of Change to Regulations #12-04 was also mailed the same day in addition to being posted on the California Department of Corrections and Rehabilitation (CDCR) Internet and Intranet websites. The Department received four written comments which are included below under *Summaries and Responses to the Written Public Comments*. A public hearing was held on July 31, 2012, no one commented at the public hearing. During review of the comments, the Department determined that a change to the text of proposed regulations was necessary, and on August 17, 2012 a 15 day renote was mailed to the four commenters who provided written comments. The 15 day renote was also posted to CDCR Internet and Intranet websites. This change and the reason for it can be found below under the heading *Changes to the Proposed Text of Regulations*. There were no commenters during the 15 day renote period.

## **DETERMINATION**

The Department has determined that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The proposed regulations have been determined to be the most efficient and effective means for monitoring an inmate's privilege group status.

## **ASSESSMENTS, MANDATES, AND FISCAL IMPACT**

This action will neither create or eliminate jobs in the State of California, nor result in the elimination of existing businesses, or create or expand businesses in the State of California.

The Department has determined this action imposes no mandates on local agencies or school districts; no fiscal impact on State or local government; or Federal funding to the State, or private persons. It is also determined that this action does not affect small businesses nor have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states, because they are not directly affected by the internal management of State prisons; and no costs or reimbursements to any local agency or school district within the meaning of Government Code Section 17561. The Department has made an initial determination the proposed action will have no significant effect on housing costs. Additionally, there has been no testimony or other evidence provided that would alter the Department's initial determination.

The Department, in proposing amendments to these regulations, has not relied upon any technical, theoretical, or empirical study, report, or similar document.

## **CHANGES TO THE PROPOSED TEXT OF REGULATIONS (15-DAY RENOTICE)**

### **Subchapter 2. Inmate Resources**

#### **Article 1. Canteens**

##### **3091. Inmate Canteen Operation.**

**Subsection 3091(c) was deleted.** It was determined that this subsection could be misinterpreted to mean that inmates could be allowed to purchase merchandise at one-fourth the maximum monthly draw without presenting an identification card. This was not the intent of this subsection, which originally pertained to privilege cards. Since the privilege cards are being eliminated, it was determined that the language in this subsection is no longer necessary, and deleting this subsection will rectify the misinterpretation that was initially presented by removing the word “privilege” and replacing it with “identification.”

**Subsections 3091(d) through 3091(d)(4) were renumbered 3091(c) through 3091(c)(4).** Due to the elimination of subsection 3091(c), the subsequent subsection was renumbered.

## **SUMMARIES AND RESPONSES TO THE WRITTEN PUBLIC COMMENTS**

### **Commenter #1**

**Comment 1A:** Commenter asks: How will the SOMS be applied to inmates accessing telephone privileges, sign-ups, and/or night yard privileges?

**Accommodation:** None

**Response 1A:** The SOMS program is a data system that is used in part to verify the privilege group of inmates. Each institution utilizes local site specific procedures to facilitate telephone sign-ups, yard access, etc.

**Comment 1B:** Commenter asks: If this is a software database with employee computers/stations, how will this be applied in practical ways, such as they do now by simply the flash of a red card to a CDCR officer, especially for staff and inmates alike with large groups of people?

**Accommodation:** None

**Response 1B:** Each institution utilizes local site specific procedures to facilitate the day-to-day operations within that institution. As the majority of institutions currently do not issue privilege cards, little change to current practices are expected; however, any procedural change or adaptation will be at the local level.

**Comment 1C:** Commenter states many inmates are concerned with how this may impact procedures with movement to and from programs.

**Accommodation:** None

**Response 1C:** Each institution utilizes local site specific procedures to facilitate the day-to-day operations within that institution. As the majority of institutions currently do not issue privilege cards, little change to current practices are expected; however, any procedural change or adaptation will be at the local level.

### **Commenter #2**

**Comment 2A:** Commenter expresses agreement with the proposed regulations citing the economic savings that will follow, and that it is the right move at the right time.

**Accommodation:** None

**Response 2A:** The Department agrees with Commenter #2's comment.

**Comment 2B:** Commenter points out that in amended section 3091(c), the amendment that is being created has left that section with a different meaning than when it was originally enacted. By allowing that amendment to be created, there has now been a situation created where an inmate can now purchase IWF Forms, Canteen Yard Cards, or merchandize at a fourth that is normally allowed without an identification card. No inmate can be allowed to participate in any institution resource without an I.D., for example: under 3020(c)(1) Library requirements, an inmate must present an I.D. Commenter presents options for consideration: 1) Delete section 3091(c), considering that this section is regarding privilege cards. 2) Rewrite section 3091(c), possible wording could be: Inmates must present their identification card when purchasing IWF Forms 22, Canteen Yard Cards, or merchandise. Privilege status will determine allowable amount to obtain. Commenter states that this was presented to the Canteen Manager II, and he also read it as to where it is allowing inmates to shop canteen without an I.D. For obvious reasons this cannot be allowed.

**Accommodation:** Section 3091 (c) is to be deleted.

**Response 2B:** The Department agrees with Commenter #2's comment, and proposes the above listed accommodation.

### **Commenter #3**

**Comment 3A:** Commenter is in favor of the proposed regulation and states that she herself had suggested to do just this very thing. With SOMS there is absolutely no reason to continue to make and issue these privilege cards.

**Accommodation:** None

**Response 3A:** The Department agrees with Commenter #3's comment.

**Commenter #4**

**Comment 4A:** Commenter states part of the need/use of a privilege card is to allow an inmate to check out recreation equipment. The use of the card enables the accountability of the equipment checked out to be returned by the said inmate. Removing the privilege card from the inmate causes the inmate to have to use his state issue ID card. Title 15 states the inmate must have this card on him/her at all times and relinquish it to whomever requests it for identification purposes. If the inmate has checked out recreation equipment with this card, it is no longer on his/her person. If someone is trying to identify an inmate without the card, an inmate can claim he/she doesn't have their card because it's in the "rec box." An inmate may "say" this, when in fact he/she has their ID on them, but they know you don't know them and can't identify them. It's not so easy to walk across the yard to check this out if the inmate is acting up and you are trying to de-escalate the situation.

**Accommodation:** None

**Response 4A:** Each institution utilizes local site specific procedures to facilitate the day-to-day operations within that institution. As the majority of institutions currently do not issue privilege cards, little change to current practices are expected; however, any procedural change or adaptation will be at the local level.

**Comment 4B:** Commenter states the whole point of a privilege card is for privileges. If an inmate does not want to program, and instead would rather spend his/her time outside playing with friends, it becomes okay. Inmates who program get the privilege of going to night yard. Inmates who don't want to go to school/work etc. can now do whatever the inmates who actually program do.

**Accommodation:** None

**Response 4B:** Although the above comment does regard some aspect or aspects of the subject proposed regulatory action and must be summarized pursuant to Government Code Section 11346.9(a)(3), the comment is either insufficiently related to the specific action, or too generalized or personalized to the extent that no meaningful response can be formulated by the Department in refutation of or accommodation to the comment.